

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

ORDER

Acting pro se, defendant Jimmy Vaughn has filed a motion pursuant to 18 U.S.C. §3582(c)(2) seeking a reduction of his sentence in view of the recent retroactive amendments to the United States Sentencing Guidelines pertaining to crack cocaine offenses. The government opposes the motion, contending that the amendments do not have the effect of lowering the defendant's range of imprisonment.

On April 4, 1996, a jury found defendant guilty of seven counts. Counts I and III charged possession with intent to distribute cocaine base. Counts II, IV, V and VI charged cocaine offenses. Count VII charged an attempt to possess with intent to distribute marijuana. Defendant's base offense level under the 1995 edition of the Sentencing Guidelines was determined to be 34, based on 7066.26 grams of cocaine, 279.99 grams of crack cocaine and 6,547.91 grams of marijuana. After a two-level increase for

possession of firearms, defendant's total offense level was 36. With a Criminal History Category of II, the Guidelines imprisonment range was 210 to 262 months. On June 28, 1996, this Court sentenced defendant to 240 months' imprisonment, concurrent on each of the seven counts of conviction.

The Court applies the 2007 Sentencing Guidelines to these same drug quantities to determine defendant's potential eligibility for a sentencing reduction pursuant to §3582(c)(2). Under Application Note 10(D) to §2D1.1, because a base offense level of 32 is associated with the quantity of cocaine base involved, a factor of 6.7 kg of marijuana per gram of cocaine base is used to convert the quantity of cocaine base to the common denominator of marijuana. The computation is as follows:

$$\begin{aligned} 6,547.91 \text{ g marijuana} &= 6.50 \text{ kg marijuana} \\ 7,066.26 \text{ g cocaine} \times 200 \text{ g}^1 &= 1,413.25 \text{ kg marijuana} \\ 279.99 \text{ g cocaine base} \times 6.7 \text{ kg} &= \underline{+ 1,875.93 \text{ kg marijuana}} \\ & 3,295.68 \text{ kg marijuana} \end{aligned}$$

This total quantity of marijuana-equivalent yields a combined base offense level of 34 under the newly amended Guidelines. This is the same base offense level as applied at the time of defendant's original sentencing.

Because the retroactive application of the newly amended Sentencing Guidelines does not yield a reduced sentencing range for

¹ See the Drug Equivalency Tables found in Application Note 10(E) to §2D1.1.

this defendant, his motion to amend his sentence will be denied.

Accordingly,

IT IS HEREBY ORDERED that defendant Jimmy Vaughn's motion for retroactive application of the Sentencing Guidelines to amend or modify his previously imposed sentence of imprisonment pursuant to 18 U.S.C. §3582(c)(2) [Doc. #146] is denied.

Dated this 14th day of April, 2008.

/s/Donald J. Stohr
UNITED STATES DISTRICT JUDGE